

Prob 12B

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

**PETITION TO MODIFY THE CONDITIONS OR TERM OF SUPERVISION
WITH CONSENT OF THE OFFENDER**

(Probation Form 49, Waiver of Hearing, is on file)

Offender Name: ANDREW ESTEVAN RODRIGUEZ

Docket Number: 1:00CR05211-02

Offender Address: Fresno, California

Judicial Officer: Honorable Anthony Ishii
Chief United States District Judge
Fresno, California

Original Sentence Date: 11/27/2000

Original Offense: 21 USC 841(a)(1) and 18 USC 2, Distribution of Cocaine
Base and Aiding and Abetting (3 Counts)
(CLASS A FELONIES)

Original Sentence: 78 months BOP; 60 months TSR; \$300 assessment;
mandatory drug testing

Special Conditions: 1) Submit to search; 2) Provide financial access; 3) Participate in drug and alcohol treatment; 4) Participate in substance abuse testing; 5) No paging devise or cellular phone without permission of USPO and must provide billing records upon request; 6) Aftercare copayment; 7) Register as narcotic offender

Type of Supervision: Supervised Release

Supervision Commenced: 09/01/2006

Assistant U.S. Attorney: Kenneth Julian **Telephone:** (559) 497-4000

Defense Attorney: John F. Garland **Telephone:** (559) 497-6132

Other Court Action:

RE: Andrew Estevan RODRIGUEZ
Docket Number: 1:00CR05211-02
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11/29/2006: Probation Form 12B, Petition to Modify Conditions of Supervision, filed with Court advising use of methamphetamine. Court approved modification of "up to 120 days" placement at Turning Point Comprehensive Sanctions Center (TPCSC), Fresno, California.

04/04/2007: Probation Form 12C filed with Court alleging use of a controlled substance failure to complete TPCSC program.

04/16/2007: Conditions of supervised release modified to include participation in Westcare inpatient treatment program.

06/05/2007: Probation Form 12C filed with Court alleging failure to complete Westcare inpatient treatment program.

07/02/2007: Supervised release revoked and the releasee was committed to the Bureau of Prisons for 4 months, with 53 months supervised release upon his release from imprisonment. All previous terms and conditions to remain in full force and effect.

10/22/2007: Probation Form 12C filed for unlawful use of a controlled substance (methamphetamine).

11/26/2007: Supervised release revoked and the releasee was committed to the Bureau of Prisons for 8 months, with 45 months supervised release. All previous terms and conditions to remain in full force and effect.

PETITIONING THE COURT

To modify the conditions of supervision as follows:

1. The probationer shall abstain from the use of alcoholic beverages and shall not frequent those places where alcohol is the chief item of sale.

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2. The probationer shall reside and participate in the Shining Light residential treatment program for a period of at least 90 days, unless discharged earlier by the probation officer, placement shall commence as directed by the probation officer and the defendant shall comply with all program rules and procedures.

Justification: On October 22, 2008, the defendant was granted a family pass and returned to the Westcare residential facility under the influence of alcohol; wherein he tested at a .08 blood alcohol level. This activity is a violation of the offender's standard condition that states "*the defendant shall refrain from excessive use of alcohol.*" The offender admitted that he does have an alcohol problem and that he does not oppose an alcohol condition being included as a special condition.

On November 5, 2008, the offender left the treatment program without authorization and then attempted to return that evening. This conduct was a violation of the Westcare residential treatment program rules and he was discharged from Westcare. This is a violation of special condition number eight which states the "*offender is to participate and successfully complete*" his residential program. Since his discharge, the offender had been testing three times per week at the probation office and all drug tests provided were negative. The offender recognizes that his compliance with Westcare residential treatment has been poor, but he believes that a faith-based program would better meet his needs in living a drug and alcohol free life. On December 10, 2008, the Shining Light faith-based residential treatment program accepted the offender and his transition to this program has been positive. The offender understands that he is in violation of his supervised release by not completing Westcare, but now believes he would succeed at a different program (faith-based). The undersigned informed the offender that should he fail to complete this program successfully, he will have exhausted all residential drug treatment options, and that the recommendation of the probation officer will be that he return to prison.

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The probationer agrees to said modification (waiver attached).

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED ON: December 22, 2008
Fresno, California
JCR

Respectfully submitted,

/s/ Jack C. Roberson

JACK C. ROBERSON
United States Probation Officer
Telephone: (559) 499-5732

REVIEWED BY: /s/ Hubert J. Alvarez
HUBERT J. ALVAREZ
Supervising United States Probation Officer

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THE COURT ORDERS:

- (**X**) Modification approved as recommended.
- () Modification not approved at this time. Probation Officer to contact Court.
- () Other:

IT IS SO ORDERED.

Dated: January 29, 2009

/s/ Anthony W. Ishii
CHIEF UNITED STATES DISTRICT JUDGE